



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

an

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/166,779	10/06/98	WOOLSTON	T 52811.000004

FISH & RICHARDSON P.C.
601 THIRTEENTH STREET, NW
WASHINGTON DC 20005

LM02/0403

EXAMINER

SMITH, D

ART UNIT	PAPER NUMBER
----------	--------------

2763

10

DATE MAILED:

04/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/166,779

Applicant

Woolston

Examiner

Demetra R. Smith

Group Art Unit

2763



☒ Responsive to communication(s) filed on Oct 6, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 11-80 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 11-80 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3, 5, 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Part III DETAILED ACTION

Information Disclosure Statement

1. The prior art submitted on 04/29/99, 8/12/99, 10/4/99 has been considered as indicated on the enclosed copies of form PTO-1449
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-55, drawn to a method for using a computer to facilitate a transaction, classified in class 705, subclass 26.
 - II. Claim 56, drawn to means for interfacing a plurality of participants and detecting participant user interface, classified in class 709, subclass 200.
 - III. Claims 64-66, drawn to a system for facilitating electronic commerce transaction and returning interest on positive balances in an account, classified in class 705, subclass 35.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as "a method for using a computer to facilitate a transaction between a sell and at least one buyer, comprising: receiving at the computer a binding offer to sell an item which includes a binding sale price; outputting the binding offer to sell a plurality of potential buyers; and receiving acceptance of said binding offer to sell

Art Unit: 2763

said item from at least one buyer, said buyer tendering acceptance by providing payment information." In the instant case, invention II has separate utility such as "means for detecting participant user interface programs; and means for providing access to a new user interface program to said plurality of users." In the instant case, invention III has separate utility such as "means for returning interest on positive balances in said accounts of said plurality of data packet network users." See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. An interview was conducted with John Phillips on March 21, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Art Unit: 2763

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Demetra R. Smith**, whose telephone number is (703) **308-6989**. The examiner can normally be reached on Tuesday-Friday from 8:00 a.m. to 5:00 p.m. EST.

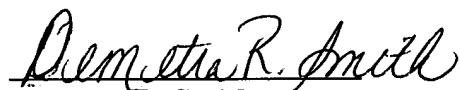
If attempts to reach the examiner by phone fail, the examiner's supervisor, **Kevin J. Teska**, can be reached at (703) **305-9704**. Additionally, the fax phone for Art Unit 2764 is (703) **308-9051 or 308-9052**, (for formal communications intended for entry), or (703) **308-5397** (for informal or draft communications, please label "PROPOSED" OR "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**Demetra.Smith@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirement of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-3900.


Demetra R. Smith
Patent Examiner
Group Art Unit 2764
March 23, 2000


KEVIN J. TESKA
SUPERVISORY
PATENT EXAMINER